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16 Attorneys for *Felix P. Camacho, Governor of Guam*

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18  
19 IN THE UNITED STATES DISTRICT COURT

20 DISTRICT OF GUAM

21 LOURDES P. AGUON-SCHULTE,

22 Plaintiff,

23 -v-

24 THE GUAM ELECTION COMMISSION, et. al.

25 Defendants.

CIVIL CASE NO. 04-00045

(Superior Court of Guam  
Civil Case No. CV1103-04)

26 JAY MERRILL, et. al.,

27 Plaintiffs,

28 -v-

THE GUAM ELECTION COMMISSION, et. al.

Defendants.

CIVIL CASE NO. 04-00046

(Superior Court of Guam  
Civil Case No. CV1111-04)

**THE GOVERNOR OF GUAM'S  
ANSWER TO THE COMPLAINT IN  
AGUON-SCHULTE V. GUAM  
ELECTION COMMISSION**

ORIGINAL

1 COMES NOW Defendant Governor of Guam Felix P. Camacho (the "Governor")  
2 and for his Answer to Plaintiff's Complaint ("Complaint") does hereby admit, deny, and allege as  
3 follows:

4 1. As to paragraph 1, the Governor is without knowledge of the facts alleged  
5 in paragraph 1 and on that basis denies those allegations.  
6

7 2. As to paragraph 2, the Governor denies this paragraph on the ground that it  
8 is a legal conclusion, and not a factual allegation.

9 3. As to paragraph 3, the Governor admits the allegations of paragraph 3.

10 4. As to paragraph 4, the Governor admits the allegations of paragraph 4.

11 5. As to paragraph 5, the Governor admits the allegations of paragraph 5.

12 6. As to paragraph 6, the Governor denies this paragraph on the ground that it  
13 is a legal conclusion, and not a factual allegation.  
14

15 7. As to paragraph 7, the Governor admits that Proposal A was on the ballot  
16 for the scheduled November 2, 2004 Guam general election. As to each and every other  
17 allegation in paragraph 7, the Governor is without knowledge of the facts alleged and on that  
18 basis denies those allegations.

19 8. As to paragraph 8, the Governor is without knowledge of the facts alleged  
20 in paragraph 8 and on that basis denies those allegations.  
21

22 9. As to paragraph 9, the Governor admits that Public Law 27-29 stated that it  
23 appropriated \$455,290 to the Election Commission. The Governor is without knowledge of the  
24 other facts alleged in paragraph 9 and on that basis denies those allegations.

25 10. As to paragraph 10, the Governor is without knowledge of the facts alleged  
26 in paragraph 10 and on that basis denies those allegations.  
27  
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1           11. As to paragraph 11, the Governor admits that on or about August 10, 2004  
2 he approved the transfer of \$25,000 to the Election Commission “for education purposes (printing  
3 of pamphlets and postage) for the Casino Gambling Initiative.” The Governor is without  
4 knowledge of the other facts alleged in paragraph 11 and on that basis denies those allegations.  
5

6           12. As to paragraph 12, the Governor admits that the Election Commission  
7 mailed Proposal A ballot pamphlets. The Governor is without knowledge of the other facts  
8 alleged in paragraph 12 and on that basis denies those allegations.

9           13. As to paragraph 13, the Governor admits the allegation of paragraph 13.

10           14. As to paragraph 14, the Governor is without knowledge of the facts alleged  
11 in paragraph 14 and on that basis denies those allegations.  
12

13           15. As to paragraph 15, the Governor denies each and every allegation of  
14 paragraph 15.

15           16. As to paragraph 16, the Governor admits the allegations of paragraph 16.

16           17. As to paragraph 17, the Governor is without knowledge of the facts alleged  
17 in paragraph 17 and on that basis denies those allegations.

18           18. As to paragraph 18, the Governor is without knowledge of the facts alleged  
19 in paragraph 18 and on that basis denies those allegations.  
20

21           19. As to paragraph 19, the Governor is without knowledge of the facts alleged  
22 in paragraph 19 and on that basis denies those allegations.

23           20. As to paragraph 20, in which Plaintiff restates her previous allegations, the  
24 Governor restates each previous response or denial to each previous allegation.

25           21. As to paragraph 21, the Governor denies each and every allegation of  
26 paragraph 21.  
27  
28

1           22. As to paragraph 22, paragraph 22 is a legal conclusion, not a factual  
2 allegation. On that basis, it is denied.

3           23. As to paragraph 23, paragraph 23 is a legal conclusion, not a factual  
4 allegation. On that basis, it is denied.

5           24. As to paragraph 24, paragraph 24 is a legal conclusion, not a factual  
6 allegation. On that basis, it is denied.

7           25. As to paragraph 25, paragraph 25 is a legal conclusion, not a factual  
8 allegation. On that basis, it is denied.

9           26. As to paragraph 26, paragraph 26 is a legal conclusion, not a factual  
10 allegation. On that basis, it is denied.

11           27. As to paragraph 27, paragraph 27 is a legal conclusion, not a factual  
12 allegation. On that basis, it is denied.

13           28. As to paragraph 28, paragraph 28 is a legal conclusion, not a factual  
14 allegation. On that basis, it is denied.

15           29. As to paragraph 29, the Governor is without knowledge as to whether the  
16 articles attached as Exhibit 3 are true and correct copies and on that ground denies that allegation.  
17 As to all other allegations in paragraph 29, the Governor denies each and every such allegation.

18           30. As to paragraph 30, the Governor denies each and every allegation of  
19 paragraph 30.

20           31. As to paragraph 31, the Governor denies each and every allegation of  
21 paragraph 31.

22           32. As to paragraph 32, in which Plaintiff restates her previous allegations, the  
23 Governor restates each previous response or denial to each previous allegation.

1           33. As to paragraph 33, the Governor is without knowledge of the facts alleged  
2 in paragraph 33 and on that basis denies those allegations.

3           34. As to paragraph 34, the Governor denies each and every allegation of  
4 paragraph 34.

5           35. As to paragraph 35, paragraph 35 is a legal conclusion, not a factual  
6 allegation. On that basis, it is denied.

7           36. As to paragraph 36, paragraph 36 is a legal conclusion, not a factual  
8 allegation. On that basis, it is denied.

9           37. As to paragraph 37, the Governor denies each and every allegation of  
10 paragraph 37.

11           38. As to paragraph 38, the Governor denies each and every allegation of  
12 paragraph 38.

13           39. As to paragraph 39, in which Plaintiff restates her previous allegations, the  
14 Governor restates each previous response or denial to each previous allegation.

15           40. As to paragraph 40, the Governor denies each and every allegation of  
16 paragraph 40.

17           41. As to paragraph 41, the Governor admits that he has the power to call a  
18 special election under certain circumstances and as provided by Guam law. The Governor denies  
19 each and every other allegation of paragraph 41.

20           42. As to paragraph 42, the Governor admits that the Legislature has the power  
21 to call a special election under certain circumstances and as provided by Guam law. The  
22 Governor denies each and every other allegation of paragraph 42.

23           43. As to paragraph 43, the Governor admits that he and the Legislature have  
24 the ability to request declaratory relief from the Guam Supreme Court under certain  
25  
26  
27  
28

1 circumstances as provided by law. The Governor denies each and every other allegation of  
2 paragraph 43.

3 44. As to paragraph 44, the Governor is without knowledge of the facts alleged  
4 in paragraph 44 and on that basis denies those allegations.

5 45. As to paragraph 45, paragraph 45 is a legal conclusion, not a factual  
6 allegation. On that basis, it is denied.

7 46. As to paragraph 46, the Governor denies each and every allegation of  
8 paragraph 46.

9 47. As to paragraph 47, the Governor denies each and every allegation of  
10 paragraph 47.

11 48. The Governor denies the entirety of Plaintiffs' Prayer for Relief.

12 49. The Governor denies each and every other allegation of Plaintiff's  
13 Complaint not previously expressly admitted herein.

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15  
16 **FOR AFFIRMATIVE DEFENSES**

17 FOR AFFIRMATIVE DEFENSES, the Governor states that Plaintiff's Complaint  
18 is also barred by some or all of the following affirmative defenses:

- 19 1. Failure to state a claim upon which relief can be granted.
- 20 2. Lack of personal jurisdiction.
- 21 3. Lack of subject matter jurisdiction.
- 22 4. Sovereign immunity.
- 23 5. Qualified immunity.
- 24 6. Failure to join an indispensable party.
- 25 7. Failure to exhaust administrative remedies.
- 26 8. Laches.
- 27
- 28

9. Unclean hands.
10. Waiver.
11. Estoppel.
12. Lack of good faith and/or bad faith.
13. Insufficiency of service of process.
14. Adequate means of alternative relief exist.
15. The right to writ is not clear and indisputable.
16. Mootness.
17. Ripeness.
18. Substantial compliance
19. Abstention.
20. Lack of the elements for class certification under FRCP 23.

**PRAYER FOR RELIEF**

WHEREFORE, the Governor prays that:

1. Plaintiffs take nothing by this action;
2. A judgment of dismissal in favor of the Governor be entered;
3. The Governor be granted such other relief as is just an appropriate under

the circumstances, including reasonable costs and attorneys' fees.

Dated this 2nd day of December, 2004.

OFFICE OF THE GOVERNOR OF GUAM  
CALVO AND CLARK, LLP  
Attorneys at Law

By: 

**DANIEL M. BENJAMIN**